



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

NOTICE OF POTENTIAL LIABILITY
FOR REMOVAL ACTION AND OPPORTUNITY
TO PERFORM VOLUNTARY CLEANUP
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

MAR 9 1995

Mr. Chester White, Vice President

(b) (6)

MAR 9 1995

Re: Rogers Electric Company Site ("Site")
Columbia Park Drive, Cheverly, Maryland

Dear Sir:

This letter confirms notification of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9607(a), as amended (CERCLA), that Blake Construction Co., Inc. may incur or may have incurred with respect to the above-referenced Site. This letter also notifies Blake Construction Co., Inc. of forthcoming removal activities at the Site which Blake Construction Co., Inc. may perform or may be asked to pay for at a later date if EPA performs them.

NOTICE OF POTENTIAL LIABILITY

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973 (RCRA), and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), to

require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), may result in a fine of up to \$25,000 per day, under Section 106(b) of CERCLA, and/or imposition of treble damages, under Section 107(c)(3), 42 U.S.C. § 9607(c)(3).

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that Blake Construction Co., Inc. may be a PRP with respect to this Site. PRPs under CERCLA include current owners and operators of the site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the site, or persons who accepted hazardous substances for transport to the site. By this letter, EPA notifies Blake Construction Co., Inc. of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities at the Site:

1. Provide sampling and analyses to determine the extent of PCB contamination at the Site.
2. Excavate and properly dispose all PCB concentrations greater than 10 ppm or greater than or equal to another concentration, as appropriate. [Should Blake Construction Co., Inc. elect to excavate the PCBs voluntarily and elect to set a higher cleanup level than 10 ppm, Blake must show that such higher concentration is consistent with all applicable or relevant and appropriate regulations (ARARs), including but not necessarily limited to the EPA Spill Cleanup Policy and must provide for appropriate deed and access restrictions.]

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to negotiate formally the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures because use of such procedures is not practicable or in the public interest, nor would use of

such procedures facilitate an agreement or expedite Removal action. It is EPA's policy not to use the special notice procedures for removals unless there is a six-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than six months, special notice procedures will not be used.

OPPORTUNITY TO CONDUCT VOLUNTARY CLEANUP

EPA encourages Blake Construction Co., Inc. to conduct a voluntary cleanup in lieu of EPA undertaking a Superfund funded response action. Such voluntary cleanup activity must be conducted in conformance with all Federal, State and local laws and/or consistent with ARARs. EPA may choose to oversee any or all field work for such voluntary cleanup activities. Blake must notify EPA, in writing, of its agreement to conduct voluntary cleanup activities within the time-frames specified below, agree to notify EPA at least two weeks in advance of all such field work and provide consent to EPA and Maryland Department of the Environment ("MDE") officials for access to the Site during all such field activities in order for EPA and MDE to perform oversight of any and all such field activities. Such notice, agreement and access should be sent certified or overnight mail to the EPA OSC whose name and address is listed below no later than March 24, 1995. The voluntary cleanup must commence no later than April 15, 1995 and must be completed no later than July 15, 1995.

EPA does not intend or desire to negotiate an administrative order and does not intend to approve work plans or other response related documents. Any such work plans or other response related technical documents must be available at the Site for EPA and MDE inspection, review and/or copying.

Failure by Blake Construction Co., Inc. to notify EPA of its agreement to conduct voluntary cleanup action within the time-frames specified above or failure to agree to provide timely notification of field activities or failure to agree to provide access to EPA and MDE during voluntary cleanup activities or failure to fully, properly and timely perform, as determined by EPA, such agreements and voluntary cleanup activities within the time-frames specified above may result in EPA performing necessary response actions and seeking to recover the costs of such response actions from Blake Construction Co., Inc.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k), EPA will establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a

response action for a site. The administrative record files, which contain such documents related to the response action selected for this Site will be available to the public for inspection and comment within sixty (60) days of EPA commencing response action at the Site. The primary location is generally the EPA Regional office.

PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA by certified mail or overnight mail to indicate your willingness to perform voluntary cleanup actions at this Site. If EPA does not receive a timely response, EPA will assume that you have declined any involvement in performing the response activities described above. You may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the Site and for any damages to natural resources.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Your response to this notice letter should be sent to:

U.S. Environmental Protection Agency
William D. Steuteville, OSC
Western Response Section (3HW32)
USEPA III
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-6678

If you have any questions pertaining to this matter, please direct them to William Steuteville. If you are represented by counsel and your attorney has questions, your attorney should contact Margaret Cardamone at (215) 597-1632.

Sincerely,



Abraham Ferdas, Associate Division
Director for Superfund Programs
Hazardous Waste Management Division